

Attorney Docket No. 1147-0142

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No. 5,750,338

Mark L. Collins et al.

Group Art Unit: Unassigned

Reissue Serial No.: Unassigned

Examiner: Unassigned

Reissue Application Filed: Herewith

For: TARGET AND BACKGROUND  
CAPTURE METHODS WITH  
AMPLIFICATION FOR AFFINITY  
ASSAYS

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**REISSUE DECLARATION UNDER 37 C.F.R. § § 1.172 and 1.175**

As a duly authorized representative of the assignee of the entire interest in this patent, I,  
Norval B. Galloway, do hereby state and declare as follows:

1. I am the Patent Counsel of Vysis, Inc., the Assignee of the entire right, title, and interest in U.S. Patent No. 5,750,338 by virtue of an assignment from the inventors to Amoco Corporation in a predecessor application (U.S. Serial No. 07/136,920), recorded at Reel 4843, Frame 0373, and by virtue of a subsequent Assignment of Patents and Applications from Amoco Corporation to Vysis Inc (copy attached to the Consent of Assignee, Offer to Surrender Original Patent, And Statement Under 37 C.F.R. § 3.73(b), filed herewith). Accordingly, I am empowered to sign this paper on behalf of the Assignee.

LAW OFFICES

FINNEGAN, HENDERSON,  
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2. I believe that Mark L. Collins, Donald N. Halbert, Walter King, and Jonathan M. Lawrie are the original joint inventors of the subject matter which is described and claimed in United States Patent No. 5,750,338, granted on May 12, 1998, and for which a reissue patent is sought on the invention entitled "Target and Background Capture Methods with Amplification for Affinity Assays."

3. I have reviewed and understand the contents of the above-identified specification, including the original patent claims, and the claims in the Preliminary Amendment filed herewith. I also believe that the claims in the Preliminary Amendment do not enlarge the scope of the claims of the original patent.

4. I acknowledge the duty to disclose information that is material to patentability and to the examination of this reissue application in accordance with 37 C.F.R. § 1.56.

5. I believe that U.S. Patent No. 5,750,338 is partially inoperative because, without any deceptive intention, the inventors claimed less than they had the right to claim in the patent.

6. An error which is a statutory basis for reissue is that the patent fails to contain claims of intermediate scope. *See* Hewlett-Packard Co. v. Bausch & Lomb, Inc., 882 F.2d 1556, 1564-1565, 11 U.S.P.Q.2d 1750, 1757 (Fed. Cir. 1989); *In re Handel* 312 F.2d 943, 945- 46 n.2, 136 U.S.P.Q. 460, 462 n.2 (C.C.P.A. 1963). The Assignee is filing this reissue application to introduce intermediate scope claims.

7. The above-described error and all other errors corrected in this reissue application arose without any deceptive intent.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

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these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

March 8, 2000

Date

Norval B. Galloway

Norval B. Galloway, Reg. No. 33,595

Patent Counsel

Vysis, Inc.

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Charles E. Lipsey, Registration No. 28,165; Charles E. Van Horn, Registration No. 40,266; and Thomas W. Banks, Registration No. 32,719 are hereby appointed associate attorneys in the above-captioned patent with full power to transact all business in the Patent and Trademark Office with respect to the issued patent and to prosecute any underlying or related continuation, divisional, reissue and reexamination application thereof.

Please direct all future communications regarding the above-captioned patent to Norval B. Galloway c/o VYSIS, INC. at the address listed below.

Respectfully submitted,

Date: 12/8/98

By: Norval B. Galloway

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**In re Reissue Application of:  
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ASSAYS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

ASSOCIATE POWER OF ATTORNEY

I hereby appoint Jean B. Fordis, Reg. No. 32,984, as an associate attorney to prosecute this reissue application and to transact all business in the Patent and Trademark Office connected therewith.

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Respectfully submitted,

March 8, 2000  
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